

The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

O'DONNELL/SALVATORI, INC., an Illinois
corporation,

Plaintiff/Counterclaim
Defendant,

v.

MICROSOFT CORPORATION, a Washington
corporation,

Defendant/Counterclaim
Plaintiff.

NO. 2:20-cv-00882-MLP

**DECLARATION OF MARK
LORBIECKI IN SUPPORT OF ODS'S
RESPONSE TO DEFENDANT
MICROSOFT CORPORATION'S
MOTION FOR SUMMARY
JUDGMENT**

**NOTED ON MOTION CALENDAR:
February 25, 2022**

ORAL ARGUMENT REQUESTED

1. I am an attorney for Plaintiff/Counterclaim Defendant O'Donnell/Salvatori, Inc. ("ODS") in the above-entitled action. I make this declaration based on personal knowledge, am over the age of 18 and competent to testify.

2. Attached hereto as Exhibit A is a confidential email indicating to Mr. Marty O'Donnell that Microsoft would not elect to complete registration of works by ODS relative to the Halo game series.

3. Attached hereto as Exhibit B is a confidential acknowledgement that Microsoft itself in the person of Frank O'Connor had no real conception of what royalties are owed to ODS.

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(2:20-cv-00882-MLP)

Williams, Kastner & Gibbs PLLC
601 Union Street, Suite 4100
Seattle, WA 98101-2380
(206) 628-6600

1 4. Attached hereto as Exhibit C is an email from Sumthing Else Music, the
2 distributor hired by Microsoft and charged with accounting for sales and distribution of Halo
3 music admitting that all records relative to earned royalties for Halo music sales and distributions
4 are in error.

5 5. Exhibit D is a true and accurate excerpted copy of the 30(b)(6) deposition of
6 Microsoft indicating that Microsoft had used various of the ODS works to form new music which
7 was not properly attributed to either of Michael Salvatori or Martin O'Donnell.

8 6. Attached hereto as Exhibit E is a true and correct copy of excerpts of the
9 Microsoft's accounting expert, Christopher Hull's deposition.

10 7. Attached hereto as Exhibit F is a true and correct copy of excerpts of the Joel
11 Yarger deposition.

12 8. Attached hereto as Exhibit G is a true and correct copy of excerpts of the Martin
13 O'Donnell deposition.

14 9. Attached hereto as Exhibit H is a true and correct copy of excerpts of the Michael
15 Salvatori deposition.

16 10. Attached hereto as Exhibit I is a true and correct copy of excerpts of the Paul
17 Lipson deposition.

18 11. Attached hereto as Exhibit J is a true and correct copy of excerpts of the Sotaro
19 Tojima deposition.

20 12. Attached hereto as Exhibit K is a true and correct copy of excerpts of the Thomas
21 Salta deposition.

22 13. Attached hereto as Exhibit L is a true and correct copy of excerpts of the Timothy
23 Saltzman deposition.

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14. Attached hereto as Exhibit M is a true and correct copy of Answers and Responses to Defendant/Counterclaim Plaintiff's First Set of Interrogatories, Requests for Production and Requests for Admission.

15. THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, SO STATED UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON AND THE UNITED STATES OF AMERICA.

DATED this 11th day of February, 2022.

s/ Mark Lawrence Lorbiecki

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***Attorneys for Plaintiff/Counterclaim
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